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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE DISTRICT OF ARIZONA
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8 Orthodontic Centers of Arizona, Inc., etc;)
9 et al.,)

10 Plaintiffs,)

11 vs.)

12 Larry J. Davis, D.D.S., M.S. etc; et al.,)

13 Defendants.)

No. CV-08-1027-PHX-LOA

ORDER TO SHOW CAUSE

14 This matter arises on the Court's review of the file. Plaintiffs filed her
15 Complaint on June 2, 2008. (docket #1) On June 3, 2008, the Court issued a Notice of
16 Assignment and Order giving Plaintiffs until June 16, 2008 within which to file their
17 consent to the exercise of jurisdiction by a United States magistrate judge or elect to
18 proceed before a United States district judge. (docket #5) As of this date, Plaintiffs have
19 failed to file their written elections to either consent to magistrate judge jurisdiction or
20 elect to proceed before a United States district judge.

21 The Civil Justice Reform Act of 1990 ("CJRA"), 28 U.S.C. § 471 *et seq.*,
22 mandates the early and on-going judicial management of the pretrial process. Under the
23 CJRA mandate, "[f]ederal trial courts are now required, by statute, to implement
24 techniques and strategies designed to dispose of cases in an efficient and inexpensive
25 manner." See, *Schwarzkopf Technologies Corp. v. Ingersoll Cutting Tool Co.*, 142
26 F.R.D. 420, 423 (D. Del.1992). Additionally, federal judges "are subject to the injunction
27 of Rule 1 [Federal Rules of Civil Procedure] that [the Rules] 'be construed to secure the
28 just, *speedy* and inexpensive determination of every action.' " *Herbert v. Lando*, 441 U.S.

1 153, 177, 99 S.Ct. 1635, 1649, 60 L.Ed.2d 115 (1979) (emphasis added). Plaintiffs'
2 failure to timely comply with the Court's prior order is frustrating the speedy and
3 inexpensive resolution of this case.

4 Absent the express consent of all the parties, a United States magistrate judge
5 does not have the statutory or constitutional authority to try a civil case to judgment or
6 rule upon a dispositive motion. 28 U.S.C. §636(b)(1)(A). The Magistrates Act, however,
7 permits magistrate judges to conduct all proceedings in civil cases if the parties expressly
8 consent: "Upon consent of the parties, a . . . United States magistrate judge . . . may
9 conduct any or all proceedings in a jury or non-jury civil matter and order the entry of
10 judgment in the case, when specially designated to exercise such jurisdiction by the
11 district court or courts he serves." *Hanson v. Mahoney*, 433 F.3d. 1107, 1111 (9th Cir.
12 2006) (citing 28 U.S.C. § 636(c)(1)); *Gomez v. United States*, 490 U.S. 858, 865-872
13 (1989) (outlining the evolution of the Act). No precise written form is required to consent
14 to a magistrate judge or to elect an assignment of a civil case to a district judge. *Kofoed v.*
15 *IBEW, Local 48*, 237 F.3d 1001, 1004 (9th Cir.2001); Fed. R. Civ. 73(b), Advisory
16 Committee note. The Clerk, however, electronically provided Plaintiffs' counsel with an
17 appropriate consent/election form on May 8, 2008.¹

18 Any party is free to withhold consent to magistrate judge jurisdiction and elect
19 to proceed before a district judge without adverse consequences. 28 U.S.C. 636(c)(2);
20 Rule 73(b), Fed.R.Civ.P.; *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 914 (9th
21 Cir.2003) (pointing out that consent is the "touchstone of magistrate judge jurisdiction"
22 under 28 U.S.C. § 636(c)).

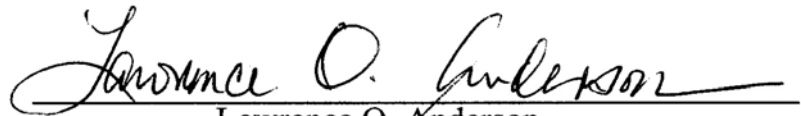
23 Pursuant to *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) (trial
24 courts have the inherent power to control their dockets and in the exercise of that power,
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26 ¹ One may also find the consent/election form on the District's web site, click on "Local Rules"
27 at the top of the page, then click on "Forms" on the left side of the page and then click on and print the
28 appropriate form. Consent/election forms are not to be e-filed; rather, they are to be filed in paper form
with the Clerk's Office. ECF Policies and Procedure Manual, II, ¶ M at p.19.

1 they may impose or recommend sanctions including, where appropriate, dismissal of a
2 case without prejudice) and the Court's inherent authority,

3 **IT IS ORDERED** that Plaintiffs show cause in writing on or before **Friday,**
4 **July 18, 2008** why Plaintiffs should not be sanctioned pursuant to Title 18 U.S.C. § 401,
5 28 U.S.C. § 636(e) and/or the Court's inherent authority for failing to comply with the
6 Court's prior order. If Plaintiffs comply with the Court's June 3, 2008 Order **on or**
7 **before 5:00 p.m. on Friday, July 18, 2008** or if Plaintiffs have already done so but their
8 consents or elections have not yet been docketed by the Clerk, the undersigned will
9 automatically discharge and vacate this OSC without imposing any sanctions.

10 DATED this 1st day of July, 2008.

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13 Lawrence O. Anderson
United States Magistrate Judge